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#### **IV. AMENDMENTS TO THE DRAWINGS**

--- Replacement and annotated mark-up drawing sheets for amended figures showing the amended figures, if any, are attached at the Appendix hereto. Each figure is in compliance with 37 C.F.R. § 1.84. An explanation of the changes, if any, is set forth below in this "Amendments to the Drawings" section. Replacement drawing sheets are identified in the top margin as "Replacement Sheet." Any replacement drawing sheet including amended figures includes all of the figures appearing on the immediate prior version of the sheet. Any annotated drawing sheets, if the same are required by the Examiner, are identified in the top margin as "Annotated Marked-Up Drawings." Any deleted figure is noted by an instruction to delete the figure. Any corresponding amendment to the specification necessary to be made because of an amendment to the drawings in this section is made in the corresponding "Amendments to Specification" section.

- THE DRAWINGS OF THE PATENT IS HEREBY AMENDED AS SET FORTH BELOW:
  - *No Drawings are Present in this Application*
  - *Attachments: None*

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## V. REMARKS/ARGUMENTS

- STATUS OF THE CLAIMS

All claims which were pending in the office action have been canceled herein. Claim 21 (new) has been added.

### REJECTIONS

#### REJECTION UNDER 35 U.S.C. §103(a)

Applicants herein address the Examiner's 103(a) rejections with respect to the claims as set forth in the Examiner's Office Action.

- Examiner's Position

The Examiner has rejected claims 1, 4, 14 and 15 under 35 U.S.C. 103(a) as being unpatentable over "Western Communion Hosts" in view of Salza (U.S. Patent No. 3,836,680).

The Examiner asserts that "Western Communion Hosts" discloses an altar bread recipe that is made using a 50/50 mixture of whole wheat flour and unbleached white flour. The Examiner further asserts that Western Communion Hosts also discloses in an interactive response, that the Catholic Church requires such bread to be made of wheat only.

The Examiner turns to U.S. Patent No. 3,836,680 which teaches a paste for forming pastas that is said to be substantially free of glutens that is made using ungelatinized starch, gelatinized starch and an emulsifier. The Examiner asserts that a person of ordinary skill in the art would be motivated to use the Salza gluten-free pasta ingredients in modifying Western Communion Hosts to produce a communion bread product suitable for individuals who suffer from gluten intolerance. The Examiner notes that Salza teaches between 52 to 64, and preferably 57 to 59 parts by weight of water being used for every 100 parts by weight of starch of the total amount of starch. The Examiner noting that a Communion host comprises a thin wafer, argues

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that one of ordinary skill in the art would have been motivated to vary the amount of starch mixture and baking time depending on the size of the final product desired.

- Applicants' Response

Applicant extends appreciation to the Examiner for the thoughtful comments set forth in the Office Action, but respectfully traverses the Examiner's rejection of claims 1, 5, 14, and 15 over "Western Communion Hosts" in view of Salza on the basis that one of ordinary skill in the art when reviewing the references in light of the entirety of claims would not find the same obvious. However, in an effort to expedite the prosecution, the applicant has canceled all of the claims, and now proceeds to set forth an alternative embodiment in new claim 21:

21. (New) A method for forming a low-gluten wafer consisting of only wheat, said method comprising the steps of:

- a. mixing about 1 part wheat starch with about 1 part pre-gelatinized wheat starch to form an homogenous starch mixture;
- b. adding water to said starch mixture in a weight ratio of about 1 part water to about 1 part said homogenous starch mixture;
- c. mixing the water into said starch mixture to form a water-starch mixture;
- d. placing said water-starch mixture between two plates each heated to about 275 - 400 degrees Fahrenheit;
- e. cooking said mixture for between about 5 minutes to about 10 minutes; and
- f. removing the resulting wafers from between said two plates.

Support for New Claim 21 claim is found, among other places, at paragraphs 15 - 16 and 21 of the published specification US 2005/0142272.

New claim 21 is asserted to be patently distinct from the combined teachings of Salza and "Western Communion Hosts." First, new Claim 21 requires "placing [the] water-starch mixture between two plates," and cooking the wafers between them, something not recited or suggested

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in either reference. Furthermore, the claim recites a specified temperature range in which the plates are to be heated, something again not taught or suggested by either reference.

Furthermore, neither reference indicates using the amount of water said to be used in forming the water-starch mixture. In fact, they suggest using substantially less water (see, gluten-free recipe at p. 6 of Western Communion Hosts, and col. 2, ln. 18-20 of Salza). The Examiner citation to col. 2, ln. 18 - 20 of Salza, is actually incongruous, as it indicates the pasta mix should comprise only 52 to 64 parts of water to the 100 parts by weight of the total amount of starch, not an approximately equal part of water to the homogenous starch mixture. Thus, the amount of water said to be used in forming the water-starch mixture is also very different.

The claim as drafted also recites that the wafer consist of only wheat, something specifically not disclosed in Salza, which actually teaches away from the same by suggesting the need for an emulsifier in producing its pasta mix. It is not clear how the Examiner can assert, except by hindsight reasoning, that one of ordinary skill in the art would look to Salza to make the gluten-free wafers said to be needed in Western Communion Hosts as such reference teaches in each case emulsifiers as needed in the formulation. Salza exhaustively teaches one of ordinary skill in the art the need of an emulsifier/monoglyceride (as the emulsifier) in every embodiment in the specifications, making reference to the same fifteen times in the 1.5 page patent. Salza does not include a single embodiment or suggestion wherein ungelatinized and pregelatinized wheat starch may be used as a protein substitute without an emulsifier. There simply is no basis for asserting that the formulation of Salza would work in the process set forth in new claim 21, and that one of ordinary skill in the art would understand that it could ignore the emulsifier/monoglyceride found in every embodiment.

In terms of Western Communion Hosts it discusses only the use of whole wheat flour and unbleached wheat flour. There is nothing said about using a wheat starch which is gluten free starch product derived from wheat flour (see, e.g. [http://www.arvandtec.com/en/App\\_starch\\_03.html](http://www.arvandtec.com/en/App_starch_03.html)). Western Communion Hosts also talks nothing about pre-gelatinized wheat starch, with pre-gelatinization involving a process that breaks down the intermolecular bonds of starch molecules in the presence of water and heat, allowing the hydrogen bonding sites (the hydroxyl hydrogen and oxygen) to engage more water (see, e.g., [http://en.wikipedia.org/wiki/Starch\\_gelatinization](http://en.wikipedia.org/wiki/Starch_gelatinization)). While Salza discusses use of ungelatinized starch and gelatinized starch,

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it only references the use of the same in making paste-like products through extrusion such as pasta, spaghetti, macaroni, rigatoni (See, col. 1, ln. 44-48 of issued U.S. Patent No. 3,836,680) and certainly not wafers or hosts (and certainly not without use of an emulsifier/monglyceride).

Accordingly, Applicants assert that the teachings of "Western Communion Hosts" in view of the Salza reference does not in any way form a *prima facie* case of obviousness. Therefore, Applicants assert that the new Claim 21 is patentable under 35 U.S.C. §103(a), and respectfully request withdrawal of the rejection.

**CONCLUSION TO REMARKS**

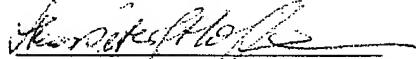
Applicants assert that this response is fully responsive to the Examiner's Office Action dated October 26, 2010. In view of the arguments presented, Applicants respectfully seek early allowance of the pending claims.

Dated: March 28, 2011

Respectfully Submitted,

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VI. APPENDIX

- *No Appendix Included in this Response.*

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